

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

ALYCE LILLEY,

Plaintiff,

Case No. 13-CV-00441

vs.

WAUKESHA COUNTY,

Defendant.

JOINT PRETRIAL REPORT

NOW COME the parties, through their undersigned counsel, and submit the following Pretrial Report:

I. SHORT SUMMARY OF FACTS, CLAIMS AND DEFENSES

Plaintiff, Alyce Lilley, was hired by Waukesha County in 1998 as a Circuit Court Supervisor in the Clerk of Courts – Criminal/Traffic Division. *Between 2006 and 2009 Lilley applied for two promotional opportunities and twice requested transfers to the Civil Division. Lilley did not receive any of the positions she sought.*¹ Lilley asserts that she was discriminated and retaliated against by Waukesha County when, in July 2011, she was denied a promotion to the position of Civil Division Manager/Coordinator by the Clerk of Courts, Kathleen Madden. Lilley claims that she was denied the promotion because of her race, African American. She also claims that she was denied the promotion in retaliation for her participation in protected activity

¹ Waukesha County objects to this factual insertion on the ground that this information is irrelevant and unfairly prejudicial to the claim involving the 2011 decision. Waukesha County has filed a motion in limine to preclude this type of information.

consisting of filing complaints of discrimination and agreeing to give a deposition in another discrimination lawsuit involving Waukesha County.

Waukesha County maintains that Lilley was not interviewed for the position in 2011 because of performance and initiative concerns. Waukesha County further maintains that Lilley was not more qualified or better suited for the position than the person hired. Waukesha County denies that its decision was motivated by race or was in retaliation for Lilley's participation in protected activity. Lilley maintains that Waukesha County's stated reasons for denying Lilley the promotion in 2011 are untrue and that it was her race or her protected activity that caused the promotion denial.

II. STATEMENT OF THE ISSUES

1. Did Waukesha County not promote Alyce Lilley in 2011 to the position of Civil Division Manager/Coordinator because of her race?
2. Did Waukesha County retaliate against Alyce Lilley by not promoting her in 2011 to the position of Civil Division Manager/Coordinator because she had participated in protected activity?
3. Is Alyce Lilley is entitled to compensatory damages and, if so, in what amount?
4. Is Alyce Lilley is entitled to an award of back and/or front pay, and if so, in what amount?

III. NAMES AND ADDRESSES OF WITNESSES TO TESTIFY

A. Alyce Lilley

1. Alyce Lilley
2113 Tallgrass Circle
Waukesha, WI 53188
2. Raymond Lilley
12802 W. Hampton Ave
Butler, WI 53007

3. Kathleen Madden
515 W. Moreland Blvd.
Waukesha, WI 53188
4. Diane Kelsner
515 W. Moreland Blvd.
Waukesha, WI 53188
5. Nicci Grzesk
515 W. Moreland Blvd.
Waukesha, WI 53188
6. Carolyn Evanson
515 W. Moreland Blvd.
Waukesha, WI 53188
7. Elizabeth Pantelis
427 N Grandview Blvd.
Waukesha, WI 53188
8. Robert Snow
515 W. Moreland Blvd.
Waukesha, WI 53188
9. James Richter
515 W. Moreland Blvd.
Waukesha, WI 53188
10. Diane Burd
515 W. Moreland Blvd.
Waukesha, WI 53188
11. Plaintiff reserves the right to call any witnesses identified by Defendant or for rebuttal.

B. Waukesha County

1. Carolyn Evenson
17950 Ashlea Drive
Brookfield, WI

2. Kathleen Madden
S50 W34340 Parkview Drive
Dousman, WI
3. Diane Kelsner
515 W. Moreland Blvd.
Waukesha, WI 53188
4. James Richter
W223 S5750 Stonehedge Drive
Waukesha, WI
5. Nicci Grzesk
515 W. Moreland Blvd.
Waukesha, WI 53188

IV. STATEMENT OF THE BACKGROUND OF ALL EXPERT WITNESSES

None.

V. A LIST OF EXHIBITS TO BE OFFERED AT TRIAL

See attached.

VI. A DESIGNATION OF ALL DEPOSITIONS TO BE READ INTO THE RECORD

None.

VII. AN ESTIMATE OF THE TIME NEEDED TO TRY THE CASE

The parties estimate trial will last 2-5 days.

VIII. Voir Dire Questions

See attached.

IX. PROPOSED SPECIAL VERDICT

See attached.

X. SUMMARY OF ELEMENTS

A. Race Discrimination—Joint

Alyce Lilley claims that Waukesha County denied her a promotion in 2011 to the position of Circuit Division Manager/Coordinator because of her race, which is African-American. To succeed on this claim, Alyce Lilley must prove by a preponderance of the evidence that she was denied the promotion by Waukesha County because of her race. To determine that Alyce Lilley was denied the promotion because of her race, you must decide that Waukesha County would have promoted her had she not been African American, but everything else had been the same.

B. Retaliation—County's Summary

Alyce Lilley also claims that she was not promoted to Civil Division Manager/Coordinator by Waukesha County because she filed complaints of discrimination in 2006 and 2007 and because she was requested to give a deposition in another action against Waukesha County. To determine that Alyce Lilley was not promoted because of these actions, you must decide that Waukesha County would have promoted Alyce Lilley had she not engaged in this protected activity but everything else had been the same.

C. Retaliation—Plaintiff's Summary

Alyce Lilley also claims that she was not promoted to Civil Division Manager/Coordinator by Waukesha County because of her expressed opposition to acts she believed were discriminatory including her filed complaints of discrimination in 2006 and 2007 and her agreement to testify for a plaintiff in a race discrimination case against Waukesha County. To determine that Alyce Lilley was not promoted because these actions, you must decide that Waukesha County would have promoted Alyce Lilley had she not engaged in this protected activity but everything else had been the same.

XI. PROPOSED JURY INSTRUCTIONS

- 1.01 Functions of the Court and the Jury
- 1.02 No Inference from Judge's Questions
- 1.04 Evidence
- 1.06 What is not Evidence
- 1.07 Note-Taking
- 1.08 Consideration of all Evidence Regardless of Who Produced
- 1.09 Limited Purpose of Evidence
- 1.11 Weighing the Evidence
- 1.12 Definition of "Direct" and "Circumstantial" Evidence
- 1.13 Testimony of Witnesses (Deciding What to Believe)
- 1.14 Prior Inconsistent Statement
- 1.16 Lawyer Interviewing Witness
- 1.17 Number of Witnesses
- 1.18 Absence of Evidence
- 1.27 Burden of Proof
- 1.32 Selection of Presiding Juror; General Verdict
- 1.33 Communication with Court
- 1.34 Disagreement Among Jurors
- 2.01 Cautionary Instruction Before Recess
- 3.01 General Employment Discrimination Instructions
- 3.02 Retaliation

Causation Instruction-Retaliation (Alyce Lilley Proposed)

Causation Instruction-Retaliation (Waukesha County Proposed)

Deviations from Past Practice (Alyce Lilley Proposed)

Pretext (Alyce Lilley Modified)

3.07 Cautionary Instruction on Reasonableness of Defendant's Action (Waukesha County Modified)

3.09 Damages: General


3.10 Compensatory Damages

See attached instructions.

Dated this 14th day of April, 2014.

CROSS LAW FIRM, S.C.
Attorneys for plaintiff, Alyce Lilley

BY: _____


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Dated this 14th day of April, 2014.

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